

**STATE OF MINNESOTA  
IN  
COURT OF APPEALS**



Save Our Schools Committee, an  
unincorporated organization of  
individuals who are citizens of and reside  
within Independent School District No.  
861,

**STATEMENT OF THE CASE OF  
PETITIONER**

Petitioner,

DISTRICT COURT CASE NUMBER: Not  
applicable

vs.

APPELLATE COURT CASE NO:

Independent School District No. 861,  
(Winona, Minnesota, Area Public  
Schools),

Respondent.

1. Court or agency of case origination and name of presiding judge or hearing officer.

Independent School District No. 861, Winona, Minnesota, Area Public Schools,  
before its school board, consisting of Allison Quam, Tina Lehnertz, Steve Schild,  
Karen Coleman, Jeanne Nelson, Ben Barratto, and Jay Kohner. Richard Dahman,  
Superintendent, ex officio member.

2. Jurisdictional Statement

(A) Appeal from district court.

Statute, rule or other authority authorizing appeal:

Date of entry of judgment or date of service of notice of filing of order from which  
appeal is taken:

Authority fixing time limit for filing notice of appeal (specify applicable rule or  
statute):

Date of filing any motion that tolls appeal time:

Date of filing of order deciding tolling motion and date of service of notice of filing:

(B) Certiorari appeal.

Statute, rule or other authority authorizing certiorari appeal: Minn. Stat. §§ 606.01 and 606.02.

Authority fixing time limit for obtaining certiorari review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice):

Minn. Stat. §§ 606.01 and 606.02. Appeal time was triggered by the e-publication of the minutes of the school board meeting, containing Resolutions adopting Findings and Conclusions, dated March 29, 2018,

(C) Other appellate proceedings.

Statute, rule or other authority authorizing appellate proceeding:

Authority fixing time limit for appellate review (cite statutory section and date of event triggering appeal time, e.g., mailing of decision, receipt of decision, or receipt of other notice):

(D) Finality of order or judgment.

Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees? Yes ( ) No ( )

If no:

Did the district court order entry of a final partial judgment for immediate appeal pursuant to MINN. R. CIV. APP. P. 104.01? Yes ( ) No ( ) or

If yes, provide date of order:

If no, is the order or judgment appealed from reviewable under any exception to the finality rule? Yes ( ) No ( )

If yes, cite rule, statute, or other authority authorizing appeal:

(E) Criminal only:

Has a sentence been imposed or imposition of sentence stayed? Yes ( ) No ( )

If no, cite statute or rule authorizing interlocutory appeal:

3. State type of litigation and designate any statutes at issue.

Appeal of decision of Minnesota school board to close two elementary schools within the district pursuant to Minn. Stat. § 123B.51.

4. Brief description of claims, defenses, issues litigated, and result below. For criminal cases, specify whether conviction was for a misdemeanor, gross misdemeanor, or felony offense.

In November 2017, the Winona School Board proposed a \$82 million referendum to construct additions onto two existing elementary schools and to close three other elementary schools. The monies also included addition work at the secondary schools in Winona. The referendum was defeated by 90% opposed to 10% favorable. In January 2018, the Board proposed to close two elementary schools before proposing construction of new facilities.

The Board voted to hold public hearings on February 21 and published notice to that effect. A major snowstorm occurred that day and the hearings were cancelled. Without further Board action and with no delegation of authority, the Superintendent published notice of a hearing for March 19. The March 19 hearings were held over objections from the public.

On March 29, the Board met and voted to close the two elementary schools. It adopted findings of fact and conclusions prepared and presented to it by the Superintendent. The Board did not discuss the Superintendent's findings, and its discussion of the issues bore no material relationship to those findings. The initial motion to close a school was made by a board member who had previously published at least two articles in the Winona newspapers arguing there was no choice other than to close schools. The board member then withdrew his motion and abstained from the actual vote.

The Board now proposes to immediately sell the school buildings and impose a restriction against any use as a school. This action may preclude any meaningful relief through this appeal or through election of a new school board.

The decision of the school board is arbitrary and capricious, unreasonable, not supported by substantial evidence, in bad faith, and was made without proper notice of hearings as required by law, and without the proper jurisdiction and authority to act.

5. List specific issues proposed to be raised on appeal.

1. Whether the notice of the public hearings was properly authorized and published?
2. Whether the Board's decision was not made in good faith because unlawful actions, bias and conflicts of interest of a board member were present to influence the board's decision?
3. Whether the Board's decision was not supported by substantial evidence in the record?
4. Whether the Board's decision unreasonably, arbitrarily, and capriciously ignored the will of the voters in a referendum vote where 90% of voters rejected the Board's school construction and consolidation plan?
5. Whether the Board unreasonably, arbitrarily and capriciously ignored all evidence contrary to the conclusion sought by the Superintendent.

6. Related appeals.

List all prior or pending appeals arising from the same action as this appeal. If none, so state. None.

List any known pending appeals in separate actions raising similar issues to this appeal. If none are known, so state. None.

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes (X) No ( )

If yes, full ( ) or partial (X) transcript?

Has the transcript already been delivered to the parties and filed with the district court administrator? Yes ( ) No (X)

If not, has it been ordered from the court reporter? Yes (X) No ( )

A request for transcript of relevant portions of the school board's meeting and a court reporter be engaged to transcript these has been made to the Respondent.

If a transcript is unavailable, is a statement of the proceedings under Rule 110.03 necessary? Yes ( ) No ( )

In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04? Yes ( ) No ( )

8. Is oral argument requested? Yes (X) No ( )

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes ( ) No (X)

If yes, state where argument is requested:

9. Identify the type of brief to be filed.

Formal brief under Rule 128.02. (X)

Informal brief under Rule 128.01, subd. 1 (must be accompanied by motion to accept unless submitted by claimant for reemployment benefits). ( )

Trial memoranda, supplemented by a short letter argument, under Rule 128.01, subd. 2. ( )

10. Names, addresses, and telephone numbers of attorney for appellant and respondent.

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111 Riverfront, Suite 207  
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507-454-8885  
karl17@hbc.com  
Attorney Reg. No. 0103421  
Attorney for Appellant/petitioner/relator

Attorney for Respondent is not known at this time.

NAME OF PARTY SUBMITTING AND ATTORNEY [IF REPRESENTED], ADDRESS (INCLUDING ZIP CODE), TELEPHONE NUMBER, EMAIL ADDRESS (IF AVAILABLE), REGISTRATION LICENSE NUMBER OF ATTORNEY(S) [IF APPLICABLE]

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*Karl W Sonneman*

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SIGNATURE

DATED: May 22, 2018

(The Statement of Case is not a jurisdictional document, but it is important to the proper and efficient processing of the appeal by the appellate courts. The "jurisdictional statement" section is intended to provide sufficient information for the appellate court to easily determine whether the order or judgment is appealable and if the appeal is timely. The nature of the proceedings below and the notice of appeal determine the jurisdiction of the appellate court. The sections requesting information about the issues litigated in the lower court or tribunal, and the issues proposed to be raised on appeal are for the court's information, and do not expand or limit the issues that might be addressed on appeal. Likewise, the section asking counsel to identify and prior or pending appeals from the same case, and any separate appeals that raise similar issues is intended to provide more information about the procedural history of the case and to ensure that the court has early notice of other pending related matters in case consolidation is appropriate.)